

**Maine Revised Statutes**  
**Title 17-A: MAINE CRIMINAL CODE**  
**Chapter 51: SENTENCES OF IMPRISONMENT**

**§1256. MULTIPLE SENTENCES OF IMPRISONMENT**

1. Other provisions of this section notwithstanding, when a person subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment or of an attempt to commit a crime while in execution of any term of imprisonment, the sentence is not concurrent with any undischarged term of imprisonment. The court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately and the court shall so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. All sentences that the convicted person receives as a result of the crimes mentioned in this subsection must be nonconcurrent with all other sentences.

[ 2005, c. 329, §4 (AMD) . ]

**1-A.** Subsection 1 applies to prisoners on supervised community confinement pursuant to Title 34-A, section 3036-A.

[ 2013, c. 133, §17 (AMD) . ]

2. In all other cases, the court shall state in the sentence of imprisonment whether a sentence shall be served concurrently with or consecutively to any other sentence previously imposed or to another sentence imposed on the same date. The sentences shall be concurrent unless, in considering the following factors, the court decides to impose sentences consecutively:

A. That the convictions are for offenses based on different conduct or arising from different criminal episodes; [1981, c. 324, §34 (NEW) . ]

B. That the defendant was under a previously imposed suspended or unsuspended sentence and was on probation, under incarceration or on a release program at the time the person committed a subsequent offense; [1983, c. 408, §4 (AMD) . ]

C. That the defendant had been released on bail when that person committed a subsequent offense, either pending trial of a previously committed offense or pending the appeal of previous conviction; or [1983, c. 408, §4 (AMD) . ]

D. That the seriousness of the criminal conduct involved in either a single criminal episode or in multiple criminal episodes or the seriousness of the criminal record of the convicted person, or both, require a sentence of imprisonment in excess of the maximum available for the most serious offense. [1981, c. 324, §34 (NEW) . ]

[ 1983, c. 408, §4 (AMD) . ]

3. A defendant may not be sentenced to consecutive terms for crimes arising out of the same criminal episode when:

A. One crime is an included crime of the other; [1981, c. 324, §34 (NEW) . ]

B. One crime consists only of a conspiracy, attempt, solicitation or other form of preparation to commit, or facilitation of, the other; [1981, c. 324, §34 (NEW) . ]

C. The crimes differ only in that one is defined to prohibit a designated kind of conduct generally, and the other to prohibit a specific instance of that conduct; or [1981, c. 324, §34 (NEW) . ]

D. Inconsistent findings of fact are required to establish the commission of the crimes. [ 1981, c. 324, §34 (NEW) .]

[ 1981, c. 324, §34 (NEW) .]

4. If the court decides to impose consecutive sentences, it shall state its reasons for doing so on the record or in the sentences.

[ 1981, c. 324, §34 (NEW) .]

5. If a person has been placed on probation pursuant to a previously imposed sentence and the court determines that the previously imposed sentence and a new sentence shall be served consecutively, the court shall revoke probation pursuant to section 1206, subsections 7 and 7-A. The court may order that the sentence which had been suspended to be served at the same institution as that which is specified by the new sentence.

[ 1981, c. 324, §34 (NEW) .]

6. If it is discovered subsequent to the imposition of a sentence of imprisonment that the sentencing court was unaware of a previously imposed sentence of imprisonment which is not fully discharged, the court shall resentence the defendant and shall specify whether the sentences are to be served concurrently or consecutively. The court shall not resentence the defendant if the sentences are consecutive as a matter of law.

[ 1987, c. 361, §6 (AMD) .]

7. When a person who has been previously sentenced in another jurisdiction has not commenced or completed that sentence, the court, subject to subsection 1, may, with consideration of the factors stated in subsection 2, sentence the person to a term of imprisonment which shall be treated as a concurrent sentence from the date of sentencing although the person is incarcerated in an institution of the other jurisdiction. No concurrent sentence pursuant to this subsection may be imposed unless the person being sentenced consents or unless the person being sentenced executes, at the time of sentencing, a written waiver of extradition for his return to this State, upon completion of the sentence of the other jurisdiction, if any portion of this State's sentence remains unserved. In the absence of an order pursuant to this subsection requiring concurrent sentences, any sentence of imprisonment in this State shall commence as provided in section 1253, subsection 1, and shall run consecutively to the sentence of the other jurisdiction.

[ 1985, c. 282, §7 (NEW) .]

8. No court may impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence, or to any sentence including supervised release under chapter 50, previously imposed or imposed on the same date, if the net result, even with the options made available by subsections 5 and 9 and section 1202, subsection 4, would be to have the person released from physical confinement to be on probation or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.

[ 1999, c. 788, §9 (AMD) .]

9. Any justice imposing a sentence of imprisonment to be served consecutively to any other previously imposed sentence that the person has not yet commenced, in order to comply with subsection 8, may rearrange the order in which the sentences are to be served. Any judge may also do so if that judge has jurisdiction over each of the sentences involved.

[ 1989, c. 739, §2 (NEW) .]

#### SECTION HISTORY

1981, c. 324, §34 (NEW). 1983, c. 408, §§3,4 (AMD). 1985, c. 282, §7 (AMD). 1985, c. 821, §14 (AMD). 1987, c. 361, §6 (AMD). 1989, c. 739, §2 (AMD). 1993, c. 522, §1 (AMD). 1999, c. 458, §1 (AMD). 1999, c. 788, §9 (AMD). 2005, c. 329, §4 (AMD). 2009, c. 142, §8 (AMD). 2013, c. 133, §17 (AMD).

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